



# ARIZONA HOUSE OF REPRESENTATIVES

## **HB 2371: mobile food vendors; state licensure**

**PRIME SPONSOR:** Representative Payne, LD 21

**BILL STATUS:** [Conference](#)

**Legend:**

Vendors – Mobile Food Vendors

Units – Mobile Food Unit

DHS – Department of Health Services

Director – DHS Director

Amendments – **BOLD** and ~~Stricken~~ (Committee)

### **Abstract**

Relating to state regulations and licensure of mobile food units and vendors.

### **Provisions**

#### ***Cities and Towns***

1. Permits a city or town by ordinance or resolution to:
  - a. Prohibit or restrict a Vendor from operating at a public airport or public transit facility in an area zoned for residential use or within 250 feet of an area zoned for residential use; and
  - b. Continue to enact and enforce regulations and zoning codes on a Unit or Vendor that are not otherwise prohibited by law. (Sec. 1)
2. Prohibits a city or town from adopting ordinances that:
  - a. Require any certain distance from an existing commercial establishment or restaurant except as required for public safety purposes.
  - b. Require a Vendor, property owner or lessee of a property to apply for and receive any special permit that is not required for other temporary or mobile vending businesses in the same zoning district.
  - c. Restrict or prohibit a Vendor or Unit from using any legal parking space, including metered parking.
    - i. This excludes restrictions on the number of spaces, vehicle size and parking duration and the ability to occupy sites with insufficient parking capacity as prescribed by a local zoning ordinance of the city or town or otherwise prohibited in federal law.
  - d. Require a Unit to be inspected by a city or town fire department before operation if the Vendor provides evidence that the Unit passed a fire inspection by another Arizona fire department within the 12 months. (Sec. 1)
3. Makes all applicable license applications available online with a population of more than 500,000 people and prohibits a city or town from requiring a Vendor to apply in person. (Sec. 1)
4. Prohibits a city or town to require a Vendor to maintain an insurance policy that names that city or town as an additional insured unless the Vendor is attending an event or operating on public property, including the right-of-way or city or town owned property. (Sec. 1)

#### ***Counties***

5. Permits a county to adopt ordinances as follows:
  - a. To set hours of operation if the hours are the same as restaurants.
  - b. Restrict noise during specific times of day.
  - c. Prohibit or restrict Vendors or Units in residential areas.

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note

- d. Prohibit a Unit that is operating on private property from blocking ingress to and egress from that property.
  - e. Restrict a Vendor or Unit from blocking the use of a public sidewalk.
  - f. Prohibit a Vendor or Unit from blocking vehicular traffic on public streets and roads.
  - g. Require a Vendor or Unit to obtain consent from a private property owner or lessee or the owner's or lessee's agent before beginning operation on that property.
  - h. Require a Vendor with a state license that is not issued by that county to apply for a permit to conduct business within the county. The permit must be available online and may not require a Vendor to be inspected as a condition of receiving the permit.
    - i. The county may charge a fee for the permit.
  - i. Prohibit or restrict a Vendor or Unit from operating at a public airport. (Sec. 2)
6. Prohibits a city, town or county from adopting ordinances:
- a. To restrict how long a Vendor or Unit operates on private property, except that a vendor may not operate at a private property location for more than 96 consecutive hours.
  - b. Require a Vendor from operating at a specific distance from an existing commercial establishment or restaurant except as required for public safety purposes.
  - c. Restrict or prohibit a Vendor from using any legal parking space, including metered parking.
  - d. Require fingerprinting.
  - e. Require an insurance policy that names the county as an additional insured, unless the Vendor is attending an event sponsored by that city or town or operating on public property. (Sec. 2)
7. Makes all applicable license applications available online with a population of more than 500,000 people and prohibits a city or town from requiring a Vendor to apply in person. (Sec. 2)

***Department of Health Services – Mobile Food Vendors and Units***

8. Stipulates the Director must adopt rules to:
- a. Establish statewide health and safety licensing and inspection standards as outlined.
  - b. Create a licensing process that:
    - i. Requires a separate license for each Vendor and Unit, renewed annually.
    - ii. Delegates to the county health department where the Vendor's commissary is located, the licensure, health and safety inspections.
    - iii. Includes random inspections at no additional cost.
    - iv. Permits a county health department to enforce the statewide inspection standards, regardless of the county that issued the license.
    - v. Stipulates a Vendor license issued by a county health department has reciprocity in all other Arizona counties.
    - vi. Instructs all employees to have a valid food handler's card or equivalent certificate.
    - vii. Requires the Vendor license to be conspicuously displayed for public view. (Sec. 3)
9. States the rules cannot:
- a. Require a Vendor or Unit to operate a specific distance from an existing restaurant or business.
  - b. Address operating hours for a Unit. (Sec. 3)
10. Authorizes the Director to adopt rules that are substantially the same as those in place on the effective date of this legislation by Maricopa County regarding Vendors. (Sec. 3)
11. States that these rules do not preclude a city, town or county from requiring a Vendor to be licensed if the licensing system includes background checks or identification and fingerprinting of the owners of the mobile food vending operation. (Sec. 3)

12. Prohibits an additional insured policy, unless the Vendor is attending an event sponsored by that city or town or operating on public property. (Sec. 4)

***Miscellaneous***

13. Outlines the parameters for assessing a tax and keeping the proper records. (Sec. 7)
14. Removes the tax exemption for the gross receipts from sales of food by a mobile facility, motor vehicle or other conveyance. (Sec. 6)
15. Exempts DHS from rulemaking for one year. (Sec. 8)
16. Defines *department, Director, mobile food vendor and mobile food unit*.
  - a. **DEFINES MOBILE FOOD UNIT AS A FOOD ESTABLISHMENT THAT IS LICENSED BY THIS STATE, THAT IS READILY MOVABLE AND THAT DISPENSES FOOD OR BEVERAGES FOR IMMEDIATE SERVICE AND CONSUMPTION AND OTHER INCIDENTAL RETAIL ITEMS FROM ANY VEHICLE. THE DEFINITION OF VEHICLE IS USED IN ACCORDANCE WITH THE DEFINITION OF VEHICLE IN THE TRANSPORTATION STATUTE. (Conference).** (Sec. 1, 2, 3, 4, 7)
17. Makes technical and conforming changes. (Sec. 5)

**Additional Information**

[Maricopa County](#) currently has ordinances related to mobile food vendors.